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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,863	08/23/2001	Steven George Skinner	MV-532-L	9426

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EXAMINER

GUYTON, PHILIP A

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

09/935,863

Applicant(s)

SKINNER ET AL.

Examiner

Philip Guyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20030519.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: page 12, lines 17-18 makes reference to "SCSI bus 23," which does not appear in the drawings. Appropriate correction is required.

Claim Objections

2. Claims 5 and 15 are objected to because of the following informalities: the phrase "said first server node" on line 9 of each claim lacks antecedent basis. It is suggested that the phrase be replaced with "a first server node." Appropriate correction is required.
3. Claims 6 and 16 are objected to because of the following informalities: the phrase "said user" on lines 3, 5, 7, 9, and 11 of each claim lacks antecedent basis. It is suggested that the phrase be replaced with "a user." Appropriate correction is required.
4. Claims 7 and 17 are objected to because of the following informalities: the phrase "said first server node" on lines 4-5 and 7-8 of each claim lacks antecedent basis. It is suggested that the phrase be replaced with "a first server node." Appropriate correction is required.
5. Claims 8 and 18 are objected to because of the following informalities: the phrase "said first server node" on lines 4-5, 7-8, 12-13, 16-17, and 19-20 of each claim

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lacks antecedent basis. It is suggested that the phrase be replaced with "a first server node." Appropriate correction is required.

6. Claims 8 and 18 are objected to because of the following informalities: the phrase "said second server node" on lines 5-6, 9-10, 13-14, and 20-21 of each claim lacks antecedent basis. It is suggested that the phrase be replaced with "a second server node." Appropriate correction is required.

7. Claims 9 and 19 are objected to because of the following informalities: the phrase "said first server node" on lines 4-5 of each claim lacks antecedent basis. It is suggested that the phrase be replaced with "a first server node." Appropriate correction is required.

8. Claims 10 and 20 are objected to because of the following informalities: the phrase "said user" on lines 3, 5, 7, 9, and 11 of each claim lacks antecedent basis. It is suggested that the phrase be replaced with "a user." Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 4, 5, 14, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claims 4 and 14 recite the limitation "said installation form" on line 16 of each claim. There is insufficient antecedent basis for this limitation in the claim and thus renders the claim unclear.

12. Claims 5 and 15 recite the limitation "said current state data" on lines 3-4 and line 5 of each claim. There is insufficient antecedent basis for this limitation in the claim and thus it is unclear what data is being referred to.

Claim Rejections - 35 USC § 101

13. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 11 is directed toward "a storage medium encoded with machine-readable computer program code," which is not a process, machine, manufacture, or composition of matter as required by 35 U.S.C. 101. It is suggested that "computer-readable media" be included in claim 11 in order to realize the functionality of the program code. Accordingly, claims 12-20 are rejected based on their dependence on claim 11.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-4, 10, 11-14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,490,690 to Gusler et al. (hereinafter Gusler) in view of U.S. Patent No. 6,836,750 to Wong et al. (hereinafter Wong).

With respect to claim 1, Gusler discloses in a computer system, a method comprising the steps of:

(a) comparing a current configuration data to a previous configuration data in an initialization phase (column 11, lines 66-67 and column 12, lines 1-4);

(b) comparing said current configuration data to a standard configuration data in an installation phase (column 11, lines 53-55);

(d) displaying a set of results in a results phase (column 3, lines 1-2 and column 13, lines 8-12).

However, Gussler does not disclose expressly a computer system including at least two server nodes, each of which can execute clustered server software.

Wong teaches a computer system including at least two server nodes (figure 1), each of which can execute clustered server software (column 5, lines 1-15).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Gusler by including multiple server nodes executing server software as taught by Wong. A person of ordinary skill in the art would have been motivated to do so because Gusler specifies a server and client network system (figure 1) running a Unix environment. Thus it would have been desirable to have

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multiple server nodes executing clustering software in the invention of Gusler because Wong specifies the use of the Unix operating system (column 4, lines 58-63).

Additionally, U.S. Patent No. 6,047,332 to Viswanathan et al. teaches that Unix-based programs are commonly hosted on computer clusters (column 1, lines 11-20).

Additionally, Gusler does not disclose expressly the step of comparing a set of operations to a standard clustering functionality in a diagnostics phase.

Wong teaches a diagnostic system for a computer cluster which compares selected system parameters with a defined threshold benchmark (column 2, lines 14-36).

At the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify Gusler with the teachings of Wong. A person of ordinary skill in the art would have been motivated to do so because Gusler discloses a desire to recover from system failures through knowledge of system parameters (column 5, lines 36-43). Thus it would have been advantageous to incorporate the teachings of Wong in the invention of Gusler.

With respect to claim 2, Gusler discloses wherein said data to restore clustering is provided when clustering services fail (column 5, lines 50-55).

With respect to claim 3, Gusler discloses wherein said installation phase further includes the step of installing clustered software on said computer system (column 6, lines 35-39).

With respect to claim 4, Gusler discloses wherein said initialization phase includes the steps of:

(a) gathering previously stored data for a first one of said server nodes (column 12, lines 50-52), and setting a flag to start with said installation phase if said previously stored data does not exist (figure 6, item 608).

(b) gathering current state data for said first server node (column 11, lines 15-17);

(c) comparing said current state data to said previously stored data (column 11, lines 66-67 and column 12, lines 1-4), and setting said flag to start with said installation phase if discrepancies exist (figure 5, item 518).

(d) gathering companion node data for said first server node (figure 5, item 508).

(e) determining if said flag has been said to start with said installation form (figure 6, item 606), and if so;

(f) displaying an installation form (column 13, lines 12-18).

With respect to claim 10, Gusler and Wong disclose wherein said results phase includes the steps of:

(a) allowing said user to view all diagnostics (Wong – figure 5);

(b) allowing said user diagnostics producing errors (Wong – column 10, lines 16-21);

(c) allowing said user diagnostics producing errors or warnings (Wong – column 10, lines 49-64);

(d) allowing said user to traverse a collection of diagnostics (Wong – figure 5);

(e) allowing said user to save said collection of diagnostics to a log file (Gusler – column 12, lines 13-17).

Claims 11-14 and 20 are a computer program code for the method of claims 1-4 and 10, and are rejected on the same grounds.

Allowable Subject Matter

16. Claims 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Additionally, claim 5 is also objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and also rewritten to overcome the further claim objections and 35 U.S.C. 112 rejection discussed above.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Guyton whose telephone number is (571) 272-3807. The examiner can normally be reached on M-F 8:00-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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